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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. | | | | |
|--|--------------------|-----------------------------------|---|------------------|---------------|------------|----------------|--|
| 10/563,441 | 06/23/2006 | Peter Wilhelmus Henricus Rietjens | 785-012436-US (PAR) | 6321 | | | | |
| 2512 PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824 | 7590 05/17/2007 | | <table border="1"><tr><td colspan="2">EXAMINER</td></tr><tr><td colspan="2">HUYNH, LOUIS K</td></tr></table> | | EXAMINER | | HUYNH, LOUIS K | |
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| HUYNH, LOUIS K | | | | | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/563,441 | Applicant(s) RIETJENS ET AL. | |
| | Examiner Louis K. Huynh | Art Unit 3721 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>1/4/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The current abstract is rather a statement of the background of the invention and thus is objected to for not describing the technical disclosure of the patent and should include that which is new in the art to which the invention pertains.
2. The specification is objected to for the following reasons:
 - The specification lacks proper headers in accordance with current U.S. practice.
 - The specification should not refer to a specific claim number because the final claims may be re-numbered differently from the originally filed claims.
3. Claim 11 is objected to for being a method claim that depends on an apparatus claim.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 3, 6, 7, 9-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
 - Claim 3, lines 1-2: "the scoring pattern" lacks proper antecedent basis.
 - Claim 6, lines 1-2: "the switching means" lacks proper antecedent basis.
 - Claim 6, lines 2-3: "especially a mirror" renders the claim indefinite because it is unclear whether or not the mirror is actually a part of the claim.
 - Claim 7, lines 1-2: "the switching means" lacks proper antecedent basis.
 - Claim 9, line 3: "the packaging machine" lacks proper antecedent basis.

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- Claim 10, line 2: “the forming of the film” lacks proper antecedent basis. claim 9 recited that the film is shaped to form a package, but does not set forth a step of forming the film.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Olivieri et al. (US 6,427,420).

- With respect to claim 1, Olivieri discloses a packaging machine (FIG. 11) that meets all of applicant's claimed subject matter; in particular, the packaging machine of Olivieri comprises: means (dancer roller and idle roller) for forming a planar material (10), and inline scoring means (1, 2) for providing a score line (432, 433).
- With respect to claim 2, the means for providing the score line is a laser (1, 2).
- With respect to claim 3, it is inherent that laser is equipped with a programmable controller and thus is fully capable of producing different scoring pattern using software modification.
- With respect to claim 4, the planar material is scored while being transported horizontally (FIGS. 1 & 11).

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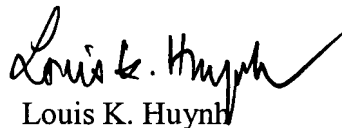
- With respect to claims 5-7, the laser of Olivieri is capable of switching from producing a single score line to producing two score lines using an optical apparatus that makes it possible to divide the laser beam coming from the source into two incident beams (col. 9, lines 41-47).
- With respect to claim 8, the packs (100 – 500) from the FIGS. 1a-5b), it is certain that the packaging machine is a horizontal flow-wrapper.
- With respect to claim 9, Olivieri discloses a method for producing a scored package from a film that meets all of applicant's claimed subject matter; in particular, the method of Olivieri comprises the step of: a film (10) is formed into a package (100, 200, 300, 400, 500), wherein the film is scored while it is transported in a packaging machine.
- With respect to claim 10, the scoring takes place prior to the forming of the film (10).
- With respect to claims 11 and 12, the film (10) is a multiply film with an upper plastic layer (11), a central metal layer (13) and a lower plastic layer (12) that are sealed together to form the film (10), the scoring takes place after the sealing of the film.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure has been cited on form PTO-892 along with the applied references.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is 571-272-4462. The examiner can normally be reached on M-F from 8:00AM to 3:00PM.
10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Louis K. Huynh
Primary Examiner
Art Unit 3721

May 14, 2007